

भारत का राजपत्र

The Gazette of India

प्रसाधारण

EXTRAORDINARY

भाग II—खड़ 2



PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 7] नई दिल्ली, बुधवार, फरवरी 26, 1969/फाल्गुन 7, 1891

No 7] NEW DELHI, WEDNESDAY, FEBRUARY 26, 1969 PHALGUNA 7, 1891

इस भाग में भिन्न पृष्ठ संलग्न हो जाती हैं जिसने कि यह प्रत्या सकलन के रूप में रखा जा सके।

Separate pagng is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following report of the Joint Committee on the Bill to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith was presented to Lok Sabha on the 26th February, 1969:—

COMPOSITION OF THE COMMITTEE

Shri Kashi Nath Pandey—Chairman

MEMBERS

Lok Sabha

2. Shri R. K. Amin
3. Shri N. Anbucchezhan

4. Shri Tridib Chaudhuri
5. Shri M. Deiveekan
6. Shri K. R. Ganesh
7. Shri Shri Chand Goyal
8. Shri Ram Krishan Gupta
9. Shri S. C. Jamir
10. Dr. Ranen Sen
11. Shri Hukam Chand Kachwai
12. Kumari Kamla Kumari
13. Shri Samarendra Kundu
14. Shri Bhajahari Mahato
15. Shri K. Ananda Nambiar
16. Shri S. D. Patil
17. Shri Khagapathi Pradhani
18. Shri S. P. Ramamoorthy
19. Shri Viswasrai Narasimha Rao
20. Dr. Sisir Kumar Saha
21. Shri P. M. Sayeed
22. Shri Deven Sen
23. Shri B. Shankaranand
24. Shri Shashi Bhushan
25. Shri Biswanarayan Shastri
26. Shri S. M. Solanki
27. Shri G. Venkateswamy
28. Shri R. S. Vidyarthi
29. Shri Virbhadra Singh
30. Shri D. R. Chavan

Rajya Sabha

31. Shri Anant Prasad Sharma
32. Shri Binoy Kumar Mahanty
33. Shri Dalpat Singh
34. Shri A. C. Gilbert
35. Pandit Bhawaniprasad Tiwary
36. Shri Shyam Dhar Misra

37. Shri Sher Khan
38. Shri Sriman Prafulla Goswami
39. Shri Sanda Narayanappa
40. Shri Sundar Mani Patel
41. Shri Prem Manohar
42. Shri Rewati Kant Sinha
43. Shri Suraj Prasad
44. Shri Brahmanand Panda
45. Shri Jaisukhlal Hathi

LEGISLATIVE COUNSEL

1. Shri P. L. Gupta, *Additional Legislative Counsel, Minister of Law.*

REPRESENTATIVES OF THE DEPARTMENT OF LABOUR AND EMPLOYMENT

1. Shri P. C. Mathew—*Secretary.*
2. Dr. S. T. Merani—*Joint Secretary.*
3. Shri H. K. Chaudhry—*O. S. D. (Law).*
4. Shri R. B. Shukla—*Director, Industrial Relations.*
5. Shri O. Venkatachalam—*Chief Labour Commissioner (Central).*
6. Shri S. C. Gupta—*Deputy Chief Labour Commissioner (Central).*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which the Bill* to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee, annexed thereto.

2. The Bill was introduced in Lok Sabha on the 31st July, 1967. The motion for reference of the Bill to a Joint Committee was moved in Lok Sabha by Shri Jaisukhlal Hathi, Minister of Labour and Rehabilitation, on the 7th May, 1968 which was adopted on the same day.

3. Rajya Sabha discussed and concurred in the said motion on the 13th May, 1968.

4. The message from Rajya Sabha was published in the Lok Sabha Bulletin, Part II, dated the 16th May, 1968.

5. The Committee held thirteen sittings in all.

6. The first sitting of the Committee was held on the 14th May, 1968 to draw up their programme of work. The Committee at this sitting decided to hear evidence from public bodies, trade unions, organisations, associations and individuals desirous of presenting their views before the Committee and to issue a Press Communiqué inviting memoranda for the purpose. The Committee also decided to invite the views of some All-India representative trade unions' central organisations, railway trade unions' federations, Railways, C.P.W.D., Ports and Docks, Coal and Steel undertakings and all the State Governments|Union Territories on the provisions of the Bill and to inform them that they could also give oral evidence before the Committee, if they so desired.

7. 33 memoranda|representations on the Bill were received by the Committee from different States|Government Departments|associations|individuals.

8. At their third sitting held on the 21st June, 1968, the Committee decided to undertake on-the-spot study visits to the different

*Published in the Gazette of India, Extraordinary, Part II Section 2, dated the 21st July, 1967.

regions of the country where contract labour was employed in large strength to enable them to acquire first-hand knowledge of the conditions in which the contract labour worked.

9. At their fifth sitting held on the 27th August, 1968, the Committee decided to divide themselves into four Study Groups for the purpose of undertaking an on-the-spot study and approved the tour programmes of the Study Groups to visit the various industries, Ports, Docks, Railway Establishments etc. in the States of West Bengal and Bihar; Maharashtra and Goa; Mysore and Madras and Andhra Pradesh and Orissa during September/October, 1968. During their visit, the members saw the working conditions of the contract labour and held discussions with the various officials and representatives of non-official organisations on the provisions of the Bill.

10. The Committee have decided that the Study Notes on the visits undertaken by their Study Groups should be laid on the Tables of both the Houses.

11. At their second, fourth and sixth to ninth sittings held on the 20th and 22nd June, 26th to 28th September and 23rd November, 1968, respectively, the Committee heard the evidence given by 12 parties.

12. The Committee have decided that the evidence given before them should be printed and laid on the Tables of both the Houses.

13. The Report of the Committee was to be presented by the first day of the Fifth Session of Lok Sabha. As this could not be done, the Committee at their second sitting held on the 20th June, 1968 decided to ask for extension of time for presentation of their Report upto the first day of the second week of the Sixth Session. Necessary motion was brought before the House and adopted on the 22nd July, 1968. The Committee decided to ask for further extension of time upto the last day of the second week of the Seventh Session which was granted by the House on the 18th November, 1968.

14. The Committee considered the Bill clause-by-clause at their tenth to twelfth sittings held from the 6th to 8th January, 1969.

15. The Committee considered and adopted their Report on the 29th January, 1969.

16. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

17. *Enacting Formula.*—The amendment therein is of a formal nature.

18. *Clause 1.*—The Committee feel that decision of the Central or the State Government, under clause 1(5) on the question whether a work performed in an establishment is intermittent or casual in nature, should only be made after consultation with the Central or State Advisory Board, as the case may be.

Further, the Committee propose to insert an Explanation under clause 1(5) to the effect that if a work in an establishment is performed for more than 120 days in the preceding twelve months or in case of a work of a seasonal character, it is performed for more than 60 days in a year, such work in an establishment shall not be deemed to be of intermittent nature.

The clause has been amended accordingly.

The other amendment in the clause is of a formal nature.

19. *Clause 2.*—In sub-clause (i) (B) of the clause, it was suggested that due to steep wage rise in recent times, the raising of wage limit in respect of a workman in a supervisory capacity from Rs. 500/- to Rs. 750/- would be more realistic.

The Minister-incharge explained that this wage limit of Rs. 500 in respect of workman in a supervisory capacity was laid down in several other labour laws and that the question of raising this wage limit in the various labour laws was already under consideration of his Ministry. He assured the Committee that he would bring forth suitable amendments to all labour laws in due course so as to put the wage limit on a uniform basis.

20. *Clause 3.*—In order to achieve a broad based representation on the Central Advisory Board, the Committee are of the view that the Central Advisory Board should consist of not less than 11 members excluding the Chairman and the Chief Labour Commissioner (C) and further, to safeguard representation of workmen on the Board, the number of members nominated to represent workmen should not be less than the number of members nominated to represent principal employers and contractors.

Sub-clause (2) (C) of the clause has been amended accordingly.

21. *Clause 4.*—In accordance with the changes proposed in clause 3 above, the clause has also been amended to provide that a State

Advisory Board shall not consist of less than nine members excluding the Chairman and the Labour Commissioner and a corresponding provision has been made in the clause that the number of members nominated to represent workmen shall not be less than the members nominated to represent the principal employers and contractors on the Board.

22. *Clause 12.*—Sub-clause (2) of the clause provides that a licence to be issued by the licensing officer to a contractor may contain conditions *inter alia* to provide for fixation of minimum wages to the contract labour. It was urged that the term 'minimum wages' had a definite connotation. In order to obviate any difficulty in providing payment of reasonable wages to contract labour which might be necessary in certain cases, the Committee decided to omit the word 'minimum' occurring therein.

Sub-clause (2) of the clause has been amended accordingly.

23. *Clause 28.*—Under sub-clause 2(d) of the clause as it originally stood, the Inspecting Staff could only seize or take copies of the records of the principal employer. It did not empower the Inspecting Staff to seize or take copies of the contractor's record. The Committee have amended sub-clause 2(d) to provide that besides the records of the principal employer, the records of the contractor are also subject to seizure.

Sub-clause 2(d) of the clause has been amended accordingly.

24. The Joint Committee recommend that the Bill as amended be passed.

KASHI NATH PANDEY,
NEW DELHI;
The 29th January, 1969.

Chairman,
Joint Committee.

MINUTES OF DISSENT

I

I was one of those who strongly canvassed for a proper legislation to abolish the contract labour system in India. This is a system which desires proper wages and working conditions to the millions of manual and office workers all over India, a substantial portion of the earnings of their labour being robbed of by unscrupulous middlemen in the name of contractors. No civilized world which preaches socialism can afford to tolerate this inhuman exploitation. In some corners and backward areas this plunder becomes inhuman and goes unchallenged. The Government of India, which is the biggest employer, which instead of setting example to private sector indulges very much in this atrocity and opens the floodgates of such inhuman exploitation of a section of labour, who by the nature of its employment are unorganised and unprotected. For example, I can quote the case of 3½ lakhs of "casual labour" on Railways besides thousands of workmen employed through contractors for construction work. In the case of casual labour the Railway Officials themselves step into the shoes of the contractor and engage them for indefinite period ranging from one to ten years and even more, denying them all the facilities that are normally due to a regular employee. We came across with several such workmen during our study tour. Many more instances can be quoted in other Departments too.

2. While the problem being so deep and complicated, the provisions like the ones envisaged in this piece of legislation are far from satisfactory. Many members in the Joint Committee tried their best to improve upon the provisions of the Bill but could not succeed. Therefore, I regret to record my disagreement to the amended Bill on the following grounds:—

- (i) This is a measure which does not intend abolition of the contract labour system as such;
- (ii) This measure only regularises this atrocious system in the name of attempting to "gradual abolition";
- (iii) Even the so-called "regulation" which is contemplated will not give any material benefit to the unfortunate mil-

lions of contract labour, who by circumstances beyond their reach are made the victims;

(iv) This does not even put a break on the irregularities practised by the Government Departments, at least to begin with.

3. In this background, I am afraid this legislation also may turn out to be a dead-letter when put to practice. It will be only proper if the Government would reconsider the whole matter and bring forward suitable amendments to recast this legislation before it is finally adopted by the House.

NEW DFLHI;

K. ANANDA NAMBIAR

February 14, 1969.

II

The emphasis in the Bill has been more on regulating the contract labour than on its abolition. Out of 35 clauses of the Bill only Clause No. 10(1) deals specifically with prohibition of employment of contract labour.

Even this right has been hedged in with so many conditions as to make prohibition of contract labour almost an impossibility.

2. The Bill excludes from its purview the casual labour whose number is in the region of three lakhs in the Railways alone and whose service conditions are in no way better than those of the contract labour.

3. The protection sought to have been given to workmen in establishments in which work only of an intermittent or casual nature is performed is through consultation of the Government in the Central or State Boards, but it is illusory, as in all these Boards, the Government and the employers and contractors together will have a majority. In the case of determination of whether an establishment is of a perennial nature or not even this consultation with the Boards, Central or State, has not been prescribed.

4. The complicated system of registration of establishments employing contract labour and of appointment of licensing officers and

of licensing of contractors is likely to give rise to corrupt practices on a large scale.

5. Even under the amended Bill, the principal employer by engaging contract labour will have the opportunity to get labour at lower than the prevailing rates paid to permanent workers and make savings in fringe benefits such as Provident Fund, minimum profit—bonus and leave and holidays, housing etc.

6. Further, contractors' scope to deprive the contract labour of their legitimate dues remains unfettered.

7. The punishments provided for contraventions of provisions of the Bill, particularly by the employers and the contractors are inadequate and will hardly be a deterrent against contraventions of the provisions.

8. The Bill, in our opinion, will fail in its primary objective of abolishing contract labour.

NEW DELHI;

February 17, 1969.

DEVEN SEN

RANEN SEN

III

I cannot agree with this Bill, both as it is conceived and as it is framed. My objection to the Bill as it is conceived, is in regard to its approach. While it is true that every step should be taken to protect labour wherever employed against possible malpractices and also to ensure in regard to their employment, observance of fair standards and practices, this does not mean that one should throw away the baby with the bath. In fact, there are areas where the contract labour should be abolished, while, in others it should be restricted, but there still remain some areas where it should be encouraged since it is both desirable and necessary for the efficiency of the economy.

2. There exists a good deal of confusion in regard to the thinking on contract labour. On one hand, there is a demand for complete abolition of contract labour—although to begin with, it is conceded that in some sectors of the economy the restrictions may be imposed. This is the view which emanates from the communist ideology—which hates anybody between capital and labour i.e. any middlemen, who is considered as sterile and useless and hence

worthy of removal. This view is totally wrong and cannot be sustained.

3. To some extent, the view just mentioned seems to be working in putting this Bill forward—because its statement of objects and reasons starts with the statement that the contract system leads itself to various abuses. This is indeed a very odd way of putting the matter. In fact, contract system is the necessary consequence of the process of division of labour so essential for economic development. In fact, in the present system of our economy—every one other than entrepreneurs—receives contractual returns and therefore work on contract. In fact, each one of us adds to the utility of goods and services by one's own labour. And hence, such a view that, no middlemen is required cannot be sustained. The move to introduce this Bill with such intention and understanding in the background should be nipped in the bud.

4. But, fortunately there is another view regarding contract labour that is labour employer by a contractor as conceived in clause 2(c) of the Bill. It is generally believed that whenever contract labour is engaged, the conditions of work of such labour are worse than regular labour. More often than not, the principal employer is averse to take any responsibility regarding wages and other conditions of labour employed by contractors.

5. Real objection to contract labour in this sense is that the contract labour is engaged by the employer through an intermediary to evade obligations cast on him under various labour enactments like Employees State Insurance Act, Employees Provident Fund Act, Industrial Disputes Act etc. Sometimes contractors are brought into the picture in order to use them against regular employees so that the strength of their union power be broken and they be prevented from asking for rise in their wages.

6. Really speaking, this is a case where the Bill should try to separate corn from the chaff. The contract labour used to evade the agreement deliberately entered by two parties should be abolished without delay. Because, such an attempt is a violation of the agreement voluntarily arrived at by two parties—labour and capital—in a particular industry. The criteria put forth by the Supreme Court become relevant in this regard. As a matter of fact, the Bill should have tried to bring out this intention of Supreme Court in clause 10 of Chapter I. The four criteria stipulated by the Supreme Court in its judgment in the case of Standard Vacuum Refining Co. of India Ltd. vs. their workmen (1960 II ILS) are conjunctive i.e. all the four conditions must be satisfied for the abolition of contract labour in any establishment. In the Bill these criteria have been

separately mentioned which is wrong and cannot therefore be accepted.

7. It is pertinent to quote from the judgement of the learned judges. "In the present case no such thing arises and the only question for decision is whether the work which is perennial and must go on from day to day and which is incidental and necessary for the work of the refinery and which is sufficient to employ a considerable number of whole-time workmen and which is being done in most concerns through regular workmen, should be allowed to be done by contractors." The Supreme Court wanted to abolish such contract work instead of to extend the principle all over is acting against the interest of the Indian economy.

8. This question again needs to be examined in the context of the economy in general and Indian economy in particular. Various studies in the working of the economy all over the world have revealed that contract labour contributes to increase in efficiency, reduction in costs, streamlined administrative and accounting procedures, a greater utilisation of technological changes, availability of outside expertise with superior technical know-how, stabilisation of labour force and elimination of wastage due to absenteeism.

9. It may well be the case that an entrepreneur with a view to concentrate his administrative talent in more important task, may like to hand over certain work to others and in that case it is a desirable division of labour. Or else some type of work may require certain type of expertise which may be needed for a short while only, in such cases the work done on contract basis may be useful both to workers as well as to consumers. Wage system based on piece-work is also a contract labour viewed differently but of the same nature. Sometimes, some type of work needs more supervision labour than the actual labour required to do the work. In that case contract labour may be more useful. Therefore, there are circumstances when contract labour is a positive good—a necessity rather than an evil. In that case the economic organisation should not only permit but also should encourage its application on a wide basis.

10. Sometimes contract labour enables us to obtain goods and services with lower cost than otherwise possible. It should be then considered as a boon—if the benefit of lower cost goes to consumers,—or if it enables us to provide employment to large number of men and women, or it enables us to develop the industry concerned. It is just conceivable that by abolishing all contract labour, the principal employer may be compelled to employ permanent workers for all types of work and thereby incur higher

costs. But as a result of this process, if he holds a monopoly,—the output of the industry concerned, may be restricted—his profits maintained the employment also restricted, prices high for consumers or if the industry concerned has to face competition, the industry becomes sick industry and very soon has to be closed down. The abolition of contract labour in such cases is not only harmful but also disastrous. It is only when elimination of contract labour reduces the excessive profits, or abnormal returns of contractors without hampering the growth of employment as well as the output, it may be helpful.

11. To some extent, the organised industries in India agree to several concessions to labour because in the context of more or less an insulated economy of India against foreign competition, a monopoly condition—both of labour and capital has been created. It is in that condition, concessions are agreed which acts against the interests of consumers. This also makes the economy rigid and also retards the possible rate of growth of the economy.

12. In India, since the economy is developing, it is likely that changes in techniques of production should take place rapidly. To enable industries to have flexibility for rapid shifts in production, it is not desirable to put any industry into a straight-jacket or into a set pattern. Complete abolition or imposition of many restrictions on the use of contract labour at this stage therefore are not desirable. Sometimes labour finds agricultural work during a particular season, say rainy season, or kharif season but is free during the Rabi season, or say in summer, when he would like to have seasonal work for a few days. Sometimes, labour itself does not like to bind down to a particular factory, while many times, he could spare any one member of his family for some contractual work but not a particular member always. In such cases, contract labour is convenient to labourer himself. The consumer also sometimes obtains cheap and efficient service—only when contract system prevails—otherwise, division of labour is not possible. The construction work, loading and unloading, transportation etc. are types of work which can be conveniently, cheaply and efficiently handled by contract labour.

13. Thus, it is necessary to recognise (a) that contract labour is not only necessary but also a positive good in some sectors of the economy and hence it should be encouraged; (b) In some, it is likely to lead to abuses, and in that case, it should be abolished where only abuses and no good is possible; and (c) it should be restricted where both good and evil are likely to be reaped. Failure to bring

out these facts categorically in the statement of objects and reasons is likely to lead to its wrongful application in the present form.

14. Let me now come to the operative part of the Bill. In this regard I do not agree with (a) definitions of establishment and contractor, (b) powers given to the Government; and (c) location of responsibility on both the contractors and the principal employers as regards payment of wages and provision of amenities.

15. The 19th Session of the Indian Labour Conference first took up the question of contract labour. It is worth while to note the conclusions of the Conference. It suggested that as far as possible the regular work of establishments should be done by the principal employer with workmen engaged directly and that contract labour should not be engaged where the work is perennial and must go on from day to day, is incidental and necessary for the work of the factory, is sufficient to employ a considerable number of workmen and is being done mostly through regular workmen. Where this is not possible, the standards for weekly rest day and overtime should be fixed. Arrangements should also be made for providing essential amenities. The Bill in fact, ought to have embodied this spirit; instead it has gone beyond its required scope.

If the aim as suggested by the 19th Session is kept in view the clause 5(e) of the Bill should have been amended as to include "any process, operation or other contract work which is of intermittent or casual nature."

16. As regards the restrictions imposed on the use of contract labour, the definition of contractor is significant. The types of benefits which the Act tries to impose are only necessary if the labour in the definition but unfortunately Bill has tried to cover all who is employed for a longer duration. This should be reflected clearly. Contractors employing contract labour of more than 20 men, even for a day, during the preceding year. This is totally wrong in principle as well as in regard to its execution. In fact, when all factory laws apply to employers having more than 20 workers, the contractor employing more than 50 men, say for more than 60 days or 90 days, ought to have been brought under restraint—or the Act should have been applied to an establishment which employs 20 or more contract labour, on an average per day—during the preceding six months.

17. The distribution such as loading, unloading and transporting also should be done by contract labour. The work which can't be done at one place or which can be separated from manufacturing process as such, or which can't be put under the discipline of fac-

tory work because of its uncertainty and irregularity, should not be put under restrictions by this Act. The work of loading and unloading, is of this type and therefore should be kept beyond the scope of this Act.

18. It is also wrong to put the responsibility on two agencies—principal employer and contractor in the Bill. To make the Principal employer as well as the contractor responsible for the payment of wages etc. when contractor is registered and given a licence is wrong. It is better to make any one of them responsible. The Principal employer can be made responsible only when contractors are not brought under the clutches of law. The Principal employer should be made responsible only when contractor is not given a licence; if the contractor is registered and holds a licence, the Principal employer should not be made responsible.

19. Moreover, the responsibility regarding the provision of canteen, latrines, drinking water etc. be made also the responsibility of any one of them, and this should be decided by the Advisory Council. Sometimes, it may be better that Principal employer is made responsible; while sometimes the contractor. The terms of contract should clearly lay down who should be responsible for what. And the appropriate Government should also be prepared in some cases to locate clearly the responsibility on any one of them.

20. In regard to locating of responsibility of making payment of wages and providing certain facilities on any one of the two—Principal employer or the contractor—it would have been better if the definition of contractor was made clear and specific. In fact, such responsibility on contractor should be laid if he is an independent contractor i.e., a person who, in the pursuit of an independent business undertakes to do specific jobs of work for other persons without submitting himself to their control in respect of the details of the work. While, in order to give relief to workers not directly employed by the owner, occupier or Manager of an industrial establishment, the Industrial Courts, High Courts and Supreme Court have laid down that where the principal employer exercises control and supervision over the worker, the worker should be deemed to be a worker under the Principal employer so as to attract the benefits of the Factories Act and the Industrial Disputes Acts. For such workers, Principal employer be made responsible. But the Act should not ride on two horses—which sometimes may mean riding on none.

21. There is also an important mistake of disregarding equity in this Bill. It is known to all that probably public sector undertakings

employ contract labour on bigger scale than the private sector undertakings. In that case, to leave the powers to appropriate governments either under clause 10(1) and 10(2) or 5(b) or clause 31 (power to exempt in special cases) may tantamount to giving special facilities to public sector undertakings. Such powers can be given for public purposes only and any private party which finds discriminatory treatment should have opportunity to approach the judiciary for redressing one's own grievances. It is to be regretted that such a fundamental right has not been granted to aggrieved parties in this Bill. Especially appeal to judicial authority should have been allowed in regard to the explanation given in clause 10(2) in the Bill.

NEW DELHI:

February 18, 1969

R. K. AMIN

IV

I have doubt that the Bill as it emerges from the Select Committee will meet the objects enunciated in the statement of objects and reasons of the Bill which provide for progressive abolition of the contract labour system and improvement of service conditions of contract labour. The Bill comes to light mainly due to the judgement of the Supreme Court in the Standard Vacuum Refining Co. of India Ltd. *vs.* its workmen, 1960, and the repeated demands made at the various Indian Labour Conferences to abolish contract labour system. The Supreme Court judgement was delivered when there was no statutory provision for regulating the contract labour system. The Supreme Court had said that from certain categories of work the contract labour system should be abolished forthwith. But the underlying principle of the judgement suggested that sooner or later this obnoxious system is done away with would be good for the country and the working class. Therefore, it is natural to hope and expect that the Bill should have enacted such provisions giving more protection to the contract labour than what the Supreme Court spelled out. On the contrary it will be found from the various clauses of the Bill that far from it becoming an effective legislative weapon meant for progressive abolition of contract labour it has emerged as confused and rambling one. It can therefore be said that the contract labour system has not been abolished even from the categories of work which Supreme Court in its judgement had mentioned i.e. where the work is done through regular workmen.

2. Most of the representatives of the Trade Unions which the Committee had the occasion to interview and record evidence demanded total and complete abolition of contract labour system. The contract labour system besides exploiting the workers also exploits the economy to the advantage of a few. Large sums which are spent in the construction work is appropriated by a few at the cost of workers and by giving under-rated production. Therefore, the only solution to the problem is complete and total abolition of contract labour system which this Bill has failed to provide.

3. Coming to some of the provisions of the Bill, the clause 1(4)(a) restricts the operation of this Bill to establishments employing 20 or more workers. This will exclude a large number of organisations who employ lesser people than this and will provide a handle to the unscrupulous employers to break up the main organisation into small units employing less than 20 persons. It further restricts the operation of the Bill in clause 1(5) where the work is of intermittent and of casual nature. The explanation provided for to define what is intermittent and casual will hardly go to meet the limitations of its operation. In the chapter dealing with Advisory Boards the representative of workmen has been kept at the same level as others. This being a Bill dealing with the contract labour and the system, it would have been fair to give a majority representation to the workers representatives in this Board.

4. For the first time in a legislation of this sort a definition of workmen as "out worker" has been introduced. In clause 2(i)(C), this "out worker" which has been defined in great length would block the operation of this Bill to a large number of workers employed in Bidi, Gold, Jewellery, garment industries etc. where "articles or materials are given out by or on behalf of the principal employer to be made up, cleaned, washed, altered, ornamented, finished, repairs...." etc. During our study tour we were shocked to see the miserable plight of the bidi workers who are employed under a contract system and whose wages and other living conditions are one of the worst. I am sorry to find that this Bill will not be of any help to them. In clause 10 the Government has reserved the arbitrary power to abolish the contract labour system as they choose under different conditions. In short this clause takes away all that has been given in other clauses of the Bill. Unless this clause is totally abolished the Bill will convey little meaning to the workers for whose benefit it is enacted.

5. Finally, due to various nagging clauses provided under this Bill the Government will not be able to abolish nor regulate the contract labour system. On the contrary I fear it will give rise to

a lot of litigation since various phrases and words will be open to numerous meaning and interpretations, with inadequate system of labour tribunals and courts, the litigation will always go to the benefit of the rich employers who are mostly the contractors in this case and, therefore, the net result will be that the bill will hardly meet the aspirations and hopes of the workers who wanted abolition of the contract labour system and will instead give rise to lot of confusion.

NEW DELHI;

February 20, 1969.

SAMARENDRA KUNDU

V

Having gone through all the Memoranda|representations submitted by various organisations, trade unions, federations, Railways, CPWD, Ports and Docks, Coal and Steel Undertakings and also having actually studied conditions of contract labour in the States of Orissa and Andhra Pradesh we are of the opinion that the conditions of the labour working under the contract system are far from satisfactory. In some cases labourers, specially women labourers, do not get even as much as Rs. 2 per day even after working for more than 8 to 10 hours. There are no satisfactory arrangements of canteen, housing accommodation, medical aid and drinking water in certain establishmets.

2. It is true that certain categories of works, specially, the loading and unloading work or other works of seasonal nature are not of a uniform work-load and vary from day to day, week to week, and month to month, thus necessitating the employment of contract labour. The Government or public undertakings or other establishments cannot afford to keep a certain fixed number of permanent labourers because for a number of days or weeks there will be no work for them. However, it has been observed that even for maintenance work of buildings or other establishments, contract labour is being employed for construction work, white-washing work and on other maintenance jobs. It is desirable that the system of contract labour should be abolished totally on maintenance jobs and must immediately be replaced by permanent labour. The disparities in the emoluments and facilities available to permanent labour and the labour working under contract system is so huge and glaring, that it is necessary and desirable to abolish contract labour in public interest. The considerations of economy should not outweigh with the government or public sector undertakings or other

establishments employing contract labour. The problem has to be viewed from a human consideration.

3. The contract labour should continue only in establishments where permanent labour if employed, would have to remain unemployed for a considerable period on account of the intermittent nature or seasonal nature of the work. Serious efforts should be made by the Government to employ labour permanently, even where it cost more to the Government and it should be retained only where it is absolutely necessary.

4. The provisions of the Act are applicable to: (a) to every establishment in which 20 or more workmen are employed or were employed on any day of the preceding 12 months as contract labour; (b) to every contractor who employs or who employed on any day of the preceding 12 months 20 or more workmen. Keeping in view how the muster rolls are managed by the contractors, it will be desirable to reduce the number from 20 to 10 so that contract labour could be abolished even from smaller establishments.

5. Then again in the explanation of Section 1(5) (b) the work performed in any establishment shall not be deemed to be of an intermittent nature: (i) if it was performed for more than 120 days in the preceding 12 months or (ii) if it is of a seasonal character and is performed for more than 60 days in a year.

6. We suggest that in above sub-para (i) the number 120 days should be reduced to 90 days and in sub-para (ii) it should be reduced to 30 days from 60 days.

7. In clause 2, it is desirable that owing to the steep wage rise in recent times, the raising of wage limit in respect of a workman in a supervisory capacity should be raised from Rs. 500 to Rs. 750. The argument of the government that the question of raising this wage limit in the various labour laws was already under consideration of the Ministry was not a cogent and convincing one. A beginning could be made with this new piece of legislation and this would have provided a precedent for other labour laws to follow.

8. In Clause 15, it is desirable that the appellate officer should be a person having legal qualifications, training of judicial work and a human approach. He should be able to decide appeals in an objective, legal and dispassionate manner. His approach should be legal rather than departmental. Therefore, it would be desirable if the appellate officers are appointed out of retired District Judges or other judicial officers.

9. In Clause 26, the right of filing a complaint has been given to the inspector or it has been made subject to his sanction. In fact, the right of filing complaints should be available to trade union workers also and no rider or restrictions should be placed on their right of filing complaints for the breach of the provisions of the Act, in order to move the appropriate authority. It is also desirable that in Section 26, the period of limitation for filing complaints should be extended to six months because it is likely that some of the contraventions of the provisions of the Act may come to notice after three months.

10. Very wide powers have been invested in the Government under Section 31 for exempting establishments in special circumstances from the operation of the provisions of the Act and the entire matter has been left to the sweet will and discretion of the appropriate Government. This provision of law, with uncontrolled and uncanalised power invested in the Government, may be abused by the appropriate Government in times of emergencies or other serious circumstances. Some criteria must be laid down and the contingencies in which this Section is to be utilised have to be specifically mentioned to avoid abuse of this provision of law.

NEW DELHI;
February 22, 1969.

SHRI CHAND GOYAL
HUKAM CHAND KACHWAI
PREM MANOHAR
R. S. VIDYARTHI

Bill No. 108-B of 1967

**THE CONTRACT LABOUR (REGULATION AND
ABOLITION) BILL, 1967**

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Bill No. 108-B of 1967

THE CONTRACT LABOUR (REGULATION AND
ABOLITION) BILL, 1967

(AS REPORTED BY THE JOINT COMMITTEE)

[*Words underlined indicate the amendments suggested by the Committee, asterisks indicate omission.*]

A
BILL

to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Contract Labour (Regulation and Abolition) Act, 1969.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

10 (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Short title,
extent,
commence-
ment and
applica-
tion.

(4) It applies—

(a) to every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;

(b) to every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen;

Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment or contractor employing such number of workmen less than twenty as may be specified in the notification.

(5) (a) It shall not apply to establishments in which work only of an intermittent or casual nature is performed.

(b) If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the Central Board or, as the case may be, a State Board, and its decision shall be final.

Explanation.—For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature—

(i) if it was performed for more than one hundred and twenty days in the preceding twelve months, or

(ii) if it is of a seasonal character and is performed for more than sixty days in a year.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means,—

(1) in relation to—

(i) any establishment pertaining to any industry carried on by or under the authority of the Central Government, or pertaining to any such controlled industry as may be specified in this behalf by the Central Government, or

(ii) any establishment of any railway, Cantonment Board, major port, mine or oil-field, or

(iii) any establishment of a banking or insurance company,

the Central Government,

(2) in relation to any other establishment, the Government of the State in which that other establishment is situated;

5 (b) a workman shall be deemed to be employed as "contract labour" in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer;

10 (c) "contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;

15 (d) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;

(e) "establishment" means—

20 (i) any office or department of the Government or a local authority, or

(ii) any place where any industry, trade, business, manufacture or occupation is carried on;

(f) "prescribed" means prescribed by rules made under this Act;

25 (g) "principal employer" means—

30 (i) in relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify in this behalf.

(ii) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948, the person so named,

35 (iii) in a mine, the owner or agent of the mine and where a person has been named as the manager of the mine, the person so named,

(iv) in any other establishment, any person responsible for the supervision and control of the establishment.

40 *Explanation.—For the purpose of sub-clause (iii) of this clause, the expressions "mine", "owner" and "agent" shall have the meanings respectively assigned to them in clause (j), clause*

(i) and clause (c) of sub-section (1) of section 2 of the Mines Act, 1952;

35 of 1952.

(h) "wages" shall have the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936;

4 of 1936.

(i) "workman" means any person employed in or in connection with the work of any establishment to do any skilled, semi-skilled or un-skilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person—

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(A) who is employed mainly in a managerial or administrative capacity; or

(B) who, being employed in a supervisory capacity draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature; or

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(C) who is an out-worker, that is to say, a person to whom any articles or materials are given out by or on behalf of the principal employer to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of the principal employer and the process is to be carried out either in the home of the out-worker or in some other premises, not being premises under the control and management of the principal employer.

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CHAPTER II

THE ADVISORY BOARDS

**Central
Advisory
Board**

3. (1) The Central Government shall, as soon as may be, constitute a board to be called the Central Advisory Contract Labour Board (hereinafter referred to as the Central Board) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

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(2) The Central Board shall consist of—

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(a) a Chairman to be appointed by the Central Government;

(b) the Chief Labour Commissioner (Central), *ex officio*;

(c) such number of members, not exceeding seventeen but not less than eleven, as the Central Government may nominate to represent that Government, the Railways, the coal industry, the mining industry, the contractors, the workmen and any other

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interests which, in the opinion of the Central Government, ought to be represented on the Central Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

4. (1) The State Government may constitute a board to be called the State Advisory Contract Labour Board (hereinafter referred to as the State Board) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The State Board shall consist of—

(a) a Chairman to be appointed by the State Government;
(b) the Labour Commissioner, *ex officio*, or in his absence any other officer nominated by the State Government in that behalf;
(c) such number of members, not exceeding eleven but not less than nine, as the Central Government may nominate to represent that Government, the industry, the contractors, the workmen and any other interests which, in the opinion of the State Government, ought to be represented on the State Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the State Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

5. (1) The Central Board or the State Board, as the case may be, may constitute such committees and for such purpose or purposes as it may think fit.

Power to constitute committees.

(2) The committee constituted under sub-section (1) shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(3) The members of a committee shall be paid such fees and allowances for attending its meetings as may be prescribed:

Provided that no fees shall be payable to a member who is an officer of Government or of any corporation established by any law for the time being in force.

CHAPTER III

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REGISTRATION OF ESTABLISHMENTS EMPLOYING CONTRACT LABOUR

6. The appropriate Government may, by an order notified in the Official Gazette—

(a) appoint such persons, being Gazetted Officers of Government, as it thinks fit to be registering officers for the purposes of 15 this Chapter; and

(b) define the limits, within which a registering officer shall exercise the powers conferred on him by or under this Act.

7. (1) Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate Government may, by notification in the Official Gazette, fix in this behalf with respect to establishments generally or with respect to any class of them, make an application to the registering officer in the prescribed manner for registration of the establishment:

Provided that the registering officer may entertain any such 25 application for registration after expiry of the period fixed in this behalf, if the registering officer is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) If the application for registration is complete in all respects, the registering officer shall register the establishment and issue to 30 the principal employer of the establishment a certificate of registration containing such particulars as may be prescribed.

8. If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, the registering officer may, after giving an opportunity to the principal employer of the establishment to be heard and with the previous approval of the appropriate Government, revoke the 40 registration.

**Appointment of
registering
officers.**

**Registration of
certain
establishments.**

**Revocation of
registration in
certain
cases.**

9. No principal employer of an establishment, to which this Act applies, shall—

(a) in the case of an establishment required to be registered under section 7, but which has not been registered within the time fixed for the purpose under that section,

(b) in the case of an establishment the registration in respect of which has been revoked under section 8,

employ contract labour in the establishment after the expiry of the period referred to in clause (a) or after the revocation of registration referred to in clause (b), as the case may be.

10. (1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such

as

(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;

(b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;

(c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;

(d) whether it is sufficient to employ considerable number of whole-time workmen.

Explanation.—If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final.

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CHAPTER IV

LICENSING OF CONTRACTORS

11. The appropriate Government may, by an order notified in the Official Gazette,—

(a) appoint such persons, being Gazetted Officers of Government, as it thinks fit to be licensing officers for the purposes of this Chapter; and

(b) define the limits, within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

Licensing of contractors. 12. (1) With effect from such date as the appropriate Government may, by notification in the Official Gazette, appoint, no contractor to whom this Act applies, shall undertake or execute any work through contract labour except under and in accordance with a licence issued in that behalf by the licensing officer.

(2) Subject to the provisions of this Act, a licence under subsection (1) may contain such conditions including, in particular, 10 conditions as to hours of work, fixation of ** wages and other essential amenities in respect of contract labour as the appropriate Government may deem fit to impose in accordance with the rules, if any, made under section 35 and shall be issued on payment of such fees and on the deposit of such sum, if any, as security for the due performance of the conditions as may be prescribed. 15

Grant of licences. 13. (1) Every application for the grant of a licence under subsection (1) of section 12 shall be made in the prescribed form and shall contain the particulars regarding the location of the establishment, the nature of process, operation or work for which contract 20 labour is to be employed and such other particulars as may be prescribed.

(2) The licensing officer may make such investigation in respect of the application received under sub-section (1) and in making any such investigation the licensing officer shall follow such procedure as may be prescribed. 25

(3) A licence granted under this Chapter shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fees and on such conditions as may be prescribed. 30

Revocation, suspension and amendment of licences. 14. (1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that—

(a) a licence granted under section 12 has been obtained by misrepresentation or suppression of any material fact, or

(b) the holder of a licence has, without reasonable cause, 35 failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then; without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer 40 may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence or forfeit the sum, if any,

or any portion thereof deposited as security for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the licensing officer may vary or amend a licence granted under section 12.

15. (1) Any person aggrieved by an order made under section 7, section 8, section 12 or section 14 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard dispose of the appeal as expeditiously as possible.

CHAPTER V

WELFARE AND HEALTH OF CONTRACT LABOUR

16. (1) The appropriate Government may make rules requiring Canteens that in every establishment—

(a) to which this Act applies,

(b) wherein work requiring employment of contract labour is likely to continue for such period as may be prescribed, and

(c) wherein contract labour numbering one hundred or more is ordinarily employed by a contractor,

one or more canteens shall be provided and maintained by the contractor for the use of such contract labour.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which the canteens shall be provided;

(b) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipment of the canteens; and

Appeal

(c) the foodstuffs which may be served therein and the charges which may be made therefor.

**Rest-
rooms.**

17. (1) In every place wherein contract labour is required to halt at night in connection with the work of an establishment—

(a) to which this Act applies, and

(b) in which work requiring employment of contract labour is likely to continue for such period as may be prescribed,

there shall be provided and maintained by the contractor for the use of the contract labour such number of rest-rooms or such other suitable alternative accommodation within such time as may be prescribed.

(2) The rest-rooms or the alternative accommodation to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a clean and comfortable condition. 15

**Other
facilities.**

18. It shall be the duty of every contractor employing contract labour in connection with the work of an establishment to which this Act applies, to provide and maintain—

(a) a sufficient supply of wholesome drinking water for the contract labour at convenient places;

(b) a sufficient number of latrines and urinals of the prescribed types so situated as to be convenient and accessible to the contract labour in the establishment; and

(c) washing facilities.

**First-
aid
facilities.**

19. There shall be provided and maintained by the contractor so 25 as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents at every place where contract labour is employed by him.

**Liability
of prin-
cipal em-
ployer in
certain
cases.**

20. (1) If any amenity required to be provided under section 16, section 17, section 18 or section 19 for the benefit of the contract 30 labour employed in an establishment is not provided by the contractor within the time prescribed therefor, such amenity shall be provided by the principal employer within such time as may be prescribed.

(2) All expenses incurred by the principal employer in providing the amenity may be recovered by the principal employer from the contractor either by deduction from any amount payable to the

contractor under any contract or as a debt payable by the contractor.

21. (1) A contractor shall be responsible for payment of wages ^{Responsibility for} to each worker employed by him as contract labour and such wages ^{payment of wages.} shall be paid before the expiry of such period as may be prescribed.

(2) Every principal employer shall nominate a representative duly authorised by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as ¹⁰ may be prescribed.

(3) It shall be the duty of the contractor to ensure the disbursement of wages in the presence of the authorised representative of the principal employer.

(4) In case the contractor fails to make payment of wages within ¹⁵ the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the ²⁰ contractor under any contract or as a debt payable by the contractor.

CHAPTER VI

PENALTIES AND PROCEDURE

22. (1) Whoever obstructs an inspector in the discharge of his ^{Obstruc-} duties under this Act or refuses or wilfully neglects to afford the ^{tions.} inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment to which, or a contractor to whom, this Act applies, shall be punishable with imprisonment for a term ³⁰ which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does any thing which ³⁵ he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**Contra-
vention of
provisions
regard-
ing em-
ployment
of con-
tract
labour.**

23. Whoever contravenes any provision of this Act or of any rules made thereunder prohibiting, restricting or regulating the employment of contract labour, or contravenes any condition of a licence granted under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention. ⁵

**Other
offences.**

24. If any person contravenes any of the provisions of this Act ¹⁰ or of any rules made thereunder for which no other penalty is elsewhere provided, he shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

**Offences
by com-
panies.**

25. (1) If the person committing an offence under this Act is a ¹⁵ company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: ²⁰

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), ²⁵ where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. ³⁰

Explanation.—For the purpose of this section—

(a) "company" means any body corporate and includes a ³⁵ firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

26. No court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of, the inspector and no court inferior to that of a Presidency Magistrate or a magistrate of the first class shall try any offence punishable under this Act.

Cognizance of offences.

27. No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector:

Limitation of prosecutions.

10 Provided that where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

CHAPTER VII

15

MISCELLANEOUS

28. (1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

Inspecting staff.

20 (2) Subject to any rules made in this behalf, an inspector may, within the local limits for which he is appointed—

25 (a) enter, at all reasonable hours, with such assistance (if any), being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place where contract labour is employed, for the purpose of examining any register or record or notices required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection;

30 (b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a workman employed therein;

35 (c) require any person giving out work and any workman, to give any information, which is in his power to give with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;

(d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the principal employer or contractor; and

(e) exercise such other powers as may be prescribed. 5

(3) Any person required to produce any document or thing or to give any information required by an inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

45 of 1860.

(4) The provisions of the Code of Criminal Procedure, 1898, shall, ¹⁰ 5 of 1898. so far as may be, apply to any search or seizure under sub-section (2) as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

Registers and other records to be maintained. 15
 29. (1) Every principal employer and every contractor shall maintain such registers and records giving such particulars of contract labour employed, the nature of work performed by the contract labour, the rates of wages paid to the contract labour and such other particulars in such form as may be prescribed.

(2) Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the premises ² of the establishment where the contract labour is employed, notices in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.

Effect of laws and agreements inconsistent with this Act. 25
 30. (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any agreement or contract of service, or in any standing orders applicable to the establishment whether made before or after the commencement of this Act:

Provided that where under any such agreement, contract of service or standing orders the contract labour employed in the establishment are entitled to benefits in respect of any matter which are more favourable to them than those to which they would be entitled under this Act, the contract labour shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that they receive benefits in respect of other matters under this Act. 35

(2) Nothing contained in this Act shall be construed as precluding any such contract labour from entering into an agreement with

the principal employer or the contractor, as the case may be, for granting them rights or privileges in respect of any matter which are more favourable to them than those to which they would be entitled under this Act.

5 31. The appropriate Government, may, if in its opinion it is necessary or expedient so to do, direct, by notification in the Official Gazette, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules made thereunder shall not apply to any establishment or class of establishments or any class of contractors.

32. (1) No suit, prosecution or other legal proceedings shall lie against any registering officer, licensing officer or any other Government servant or against any member of the Central Board or the State Board, as the case may be, for anything which is in good faith done or intended, to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

33. The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

25 34. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

30 35. (1) The appropriate Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of persons to be appointed as members representing various interests on the Central Board and the

Power to exempt in special cases.

Protection of action taken under this Act.

Power to give directions.

Power to remove difficulties.

Power to make rules.

State Board, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies;

(b) the times and places of the meetings of any committee constituted under this Act, the procedure to be followed at such 5 meetings including the quorum necessary for the transaction of business, and the fees and allowances that may be paid to the members of a committee;

(c) the manner in which establishments may be registered under section 7, the levy of a fee therefor and the form of 10 certificate of registration;

(d) the form of application for the grant or renewal of a licence under section 13 and the particulars it may contain;

(e) the manner in which an investigation is to be made in respect of an application for the grant of a licence and the 15 matters to be taken into account in granting or refusing a licence;

(f) the form of a licence which may be granted or renewed under section 12 and the conditions subject to which the licence may be granted or renewed, the fees to be levied for the grant or renewal of a licence and the deposit of any sum as security 20 for the performance of such conditions;

(g) the circumstances under which licences may be varied or amended under section 14;

(h) the form and manner in which appeals may be filed under section 15 and the procedure to be followed by appellate 25 officers in disposing of the appeals;

(i) the time within which facilities required by this Act to be provided and maintained may be so provided by the contractor and in case of default on the part of the contractor, by the principal employer; 30

(j) the number and types of canteens, rest-rooms, latrines and urinals that should be provided and maintained;

(k) the type of equipment that should be provided in the first-aid boxes;

(l) the period within which wages payable to contract 35 labour should be paid by the contractor under sub-section (1) of section 21;

(m) the form of registers and records to be maintained by principal employers and contractors;

(n) the submission of returns, forms in which, and the authorities to which, such returns may be submitted;

5 (o) the collection of any information or statistics in relation to contract labour; and

(p) any other matter which has to be, or may be, prescribed under this Act.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

S. L. SHAKDHER,
Secretary.
